MT LEGISLATIVE HISTORY

Chapter 352 1975

Bill H 307 S ____ Original bill & hist. ✓C

H. Committee on Judiciary		S. Committee on Judiciary	
Hearing Date(s) 2/6	✓C	Hearing Date(s) 3/6	✓C
2	C	3/11	✓C
	C		C
	C		C
Date Out 2/11	✓C	3/13	C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

House BILL NO. 307

INTRODUCED BY Dassinger

By request of the Department of Revenue

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 91A-3-803 AND 91A-3-805, R.C.M. 1947, RELATING TO CLAIMS AGAINST A DECEDENT'S ESTATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 91A-3-803, R.C.M. 1947, is amended to read as follows:

"91A-3-803. Limitations of presentation of claims -- exception. (1) All claims against a decedent's estate with the exception of claims for taxes and claims founded on tort which arose before the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract or other legal basis, if not barred earlier by other statute of limitations, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(a) within four (4) months after the date of the first publication of notice to creditors if notice is given in compliance with section 91A-3-801; provided, claims barred by the nonclaim statute at the decedent's domicile before the first publication for claims in this state are also barred in this state; or

(b) within three (3) years after the decedent's death, if notice to creditors has not been published.

(2) All claims against a decedent's estate with the exception of claims for taxes and claims founded on tort which arise at or after the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract or other legal basis, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(a) a claim based on a contract with the personal representative, within four (4) months after performance by the personal representative is due;

(b) any other claim, within four (4) months after it arises.

(3) Nothing in this section affects or prevents:

(a) any proceeding to enforce any mortgage, pledge, or other lien upon property of the estate; or

(b) to the limits of the insurance protection only, any proceeding to establish liability of the decedent or the personal representative for which he is protected by liability insurance."

Section 2. Section 91A-3-805, R.C.M. 1947, is amended to read as follows:

"91A-3-805. Classification of claims. (1) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

(a) costs and expenses of administration;

(b) reasonable funeral expenses and reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him;

(c) federal and Montana state taxes, and debts and taxes with preference under federal and Montana law;

~~(d)--reasonable--and--necessary--medical--and--hospital expenses-of-the-last--illness--of--the--decedent,--including compensation-of-persons-attending-him;~~

~~(e)--debts--and-taxes-with-preference-under-the-laws-of this-state;~~

~~(f)~~ (d) all other claims.

(2) No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due."

-End-

HOUSE BILL NO. 307 Representative E. N. Dassinger, District #50 stated this is a housekeeping bill he introduced at the request of the Department of Revenue.

Proponent Margaret Borg, representing the Department of Revenue, stated with this bill they have made two changes to the Probate Code. She stated they wanted to add under 93-403 payment of taxes. If taxpayer dies March 1st his tax is due for January and February of that year and the way the law is now they have to wait a great length of time to collect these taxes. Also under 81-A-3805 which classifies types, the amendment does two things. It places the language back in from the Uniform Probate Code and it has also reclassified to put the department on better footing.

Following brief questioning by committee members the hearing was closed and the meeting adjourned at 10:40 AM.

HH:pb

HERB HUENNEKENS, CHAIRMAN

HOUSE BILL NO. 307 Representative Yardley stated the second part of the bill on page 3 relates to the model code. Representative Meloy moved DO PASS. Motion carried with Representative Hager voting no. Representative Hager stated he liked page 3, but doesn't like pages 1 and 2.

HOUSE BILL NO. 323 Representative Mercer is chief sponsor. Representative Moore stated that with this bill are limiting this with with subsection (2); the body of tort law dealing with acts of children and responsibility of parents. The essence of the law is that a child is treated like dogs and animals. A parent is not held responsible unless the parent should have known what the child was like. Then they are liable for all actual compensatory damages. He feels this bill would accomplish the opposite of what Representative Mercer intended.

Representative Meloy stated that an alternative would be to remove the minimum damage figures.

A motion by Representative Baeth of DO NOT PASS carried with Representatives Meloy, Hager and Lory voting no.

A motion to adjourn was made and carried. The meeting adjourned at 6:30 PM.

Herb Huennekens

HERB HUENNEKENS, CHAIRMAN

HH:pb

STANDING COMMITTEE REPORT

February 11, 19 75

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 307

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 91A-3-803 AND 91A-3-805, R.C.M. 1947, RELATING TO CLAIMS AGAINST A DECEDENT'S ESTATE."

Respectfully report as follows: That HOUSE Bill No. 307

DO PASS

BK:pb

STATE PUB. CO.
Helena, Mont.

BOB BOTTOMLY, CHAIRMAN, Chairman.

MINUTES OF THE MEETING
1 JUDICIARY COMMITTEE
March 6, 1975

The meeting was called to order by Senator Towe at 9:35 A.M. All members of the committee were present.

The following bills were heard:

HB 228
HB 229
HB 309
HB 307
HB 82

HB 228 -- & HB 229 Representative James Moore of District 18 was the sponsor of HB 228 and HB 229. He stated that the purpose of the bills was to update the language in Montana statutes regarding justice courts and police courts in the areas of fees, jurisdictional limits, and training of justices of the peace and police judges.

Ms. Carol Nelson, Research Assistant to the Commissioner on Lower Courts, presented written comments by E. Gardner Brownlee, Co-Chairman of the Commissioner on Lower Courts, which spoke favorably of the bills (attached).

There were no further proponents and no opponents to the bills.

HB 309 -- Representative John Scully of District 76 spoke next on HB 309 of which he was the sponsor. He stated that the purpose of the bill was to provide for disqualification of justices, magistrates and justices of the peace. He stated that in addition to adding a new section 95-2010 regarding disqualification in the lower courts, the bill amends 93-901, R.C.M., 1947 in order to conform that section of the law with its original intent.

There were no further proponents and no opponents to the bill.

HB 307 - Representative E. N. Dassinger of District [illegible] was the sponsor of HB 307. Carrying the bill for Representative Dassinger, who was not present, was Mr. Tom Stoll, Chief of the Inheritance Tax Bureau of the Department of Revenue, which requested the bill. Mr. Stoll stated that the purpose of the bill was to add an exception clause to claims against estates for taxes and claims founded on tort. He stated that the bill changes the classification of claims on estates and clarifies and limits claims against estates founded on tort.

There were no further proponents and no opponents to the bill.

Pending the arrival of Representative John Driscoll, sponsor of HB 82, the committee went into executive session.

EXECUTIVE SESSION

HB 228 -- Senator Turnage moved that HB 228 be concurred in. The motion was withdrawn, and the committee decided to pass consideration of HB 228 for the day.

HB 309 -- Senator Turnage moved to amend HB 309 by adding "other than a justice of the Supreme Court" in all places where the word justice stands alone. The motion was withdrawn.

Senator Turnage moved to amend HB 309, Section 2 by adding a new sub paragraph (5), "Nothing contained in (4) of this section shall apply to a justice of the Supreme Court." THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

Senator Turnage moved that HB 309 be concurred in as amended. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

With the arrival of Representative Driscoll of District 91, the hearing resumed to hear HB 82.

HB 82 -- Representative John Driscoll explained that the purpose of HB 82 is to change the law regarding public uses for which condemnation proceedings can be instituted and to conform eminent domain power granted to public utilities with the eminent domain power granted the Department of Highways.

Mr. Irv Alderson of Birney, Montana, representing the Tri-County Ranchers Association, presented a letter from Mr. Jase O. Norsworothy of the Montana Water Storage Co. which illustrated the problems ranchers have when corporations exercise their power of eminent domain (attached).

Mrs. Art Hayes, Jr. of Birney, Montana, also representing the Tri-County Ranchers Association, spoke as a rancher in favor of the bill.

Mr. Kit Muller, representing the Northern Plains Resource Council, spoke in favor of the bill, in particular those provisions relating to mining and water reservoirs.

Ms. Torian Donohue, representing the Stillwater Landowners Association, spoke in support of the bill and stated that agriculture is the most important industry in the State and must be preserved from unchecked development of mining.

MINUTES OF THE MEETING
SENATE JUDICIARY COMMITTEE
March 11, 1975

The meeting was called to order by Senator Towe upon adjournment of the regular session of the Senate. Senator Greely was absent.

EXECUTIVE SESSION

HB 196 -- Senator Towe appointed a sub-committee to study and propose amendments for HB 196. Sub-committee members were: Senator Roberts, Chairman, Senator Cetrone and Senator Brown.

HB 228 -- Senator Drake moved to amend HB 228 on page 11, lines 4 and 5 (attached). WITH SENATOR GREELY ABSENT AND SENATOR ROBERTS TEMPORARILY ABSENT, THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

Senator Drake moved that HB 228 be concurred in as amended. WITH SENATOR GREELY ABSENT AND SENATOR ROBERTS TEMPORARILY ABSENT, THE MOTION CARRIED ON A ROLL CALL VOTE.

HB 229 -- Senator Turnage moved that HB 229 be concurred in. WITH SENATOR GREELY ABSENT THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

HB 307 -- Senator Turnage moved that HB 307 be amended on page 3, line 12 (attached). WITH SENATOR GREELY ABSENT THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

Senator Turnage moved that HB 307 be concurred in as amended. WITH SENATOR GREELY ABSENT THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

HB 283 -- Senator Roberts moved that HB 283 be concurred in. WITH SENATOR GREELY ABSENT THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

HB 134 -- Senator Roberts moved that HB 134 be not concurred in.

As a substitute motion, Senator Turnage moved to amend HB 134 on page 3, lines 7 through 11 (attached). WITH SENATOR GREELY ABSENT THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

Senator Roberts moved that HB 134 as amended be not concurred in. WITH SENATOR GREELY ABSENT AND SENATORS CETRONE, TURNAGE AND TOWE VOTING NO, THE MOTION CARRIED ON A ROLL CALL VOTE.

HB 297 -- Senator Warden moved that HB 297 be concurred in. WITH SENATOR GREELY ABSENT THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

STANDING COMMITTEE REPORT

March 13 19 75

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 307

Respectfully report as follows: That HOUSE Bill No. 307

third reading, be amended as follows:

1. Amend page 3, section 2, line 12.
   Following: "federal"
   Insert: "estate"

2. Amend page 3, section 2, line 12.
   Following: "state"
   Insert: "estate and inheritance"

3. Amend page 3, section 2, line 12.
   Following: "taxes"
   Strike: ","
   Insert: ";"

4. Amend page 3, section 2, lines 12.
   Following: "taxes;"
   Strike: "and debts"

5. Amend page 3, section 2, line 13.
   Following: "taxes"
   Insert: "(d) debts"

Chairman.

STATE PUB. CO.
Helena, Mont.

3. ... Page 3, section 2, line 1.
following: line 13.
Insert: "(3) other material may contain state taxes;"
Reletter: subsequent subsection

AND AS SO AMENDED, BE CONCURRED IN

CHAIRMAN

HOUSE BILL NO. 307

INTRODUCED BY DASSINGER

(BY REQUEST OF THE DEPARTMENT OF REVENUE)

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 91A-3-803 AND 91A-3-805, R.C.M. 1947, RELATING TO CLAIMS AGAINST A DECEDENT'S ESTATE."

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(a) within four (4) months after the date of the first publication of notice to creditors if notice is given in compliance with section 91A-3-801; provided, claims barred

REFERENCE BILL

by the nonclaim statute at the decedent's domicile before the first publication for claims in this state are also barred in this state; or

(b) within three (3) years after the decedent's death, if notice to creditors has not been published.

(2) All claims against a decedent's estate with the exception of claims for taxes and claims founded on tort which arise at or after the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract or other legal basis, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(a) a claim based on a contract with the personal representative, within four (4) months after performance by the personal representative is due;

(b) any other claim, within four (4) months after it arises.

(3) Nothing in this section affects or prevents:

(a) any proceeding to enforce any mortgage, pledge, or other lien upon property of the estate; or

(b) to the limits of the insurance protection only, any proceeding to establish liability of the decedent or the personal representative for which he is protected by

liability insurance."

Section 2. Section 91A-3-805, R.C.M. 1947, is amended to read as follows:

"91A-3-805. Classification of claims. (1) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

(a) costs and expenses of administration;

(b) reasonable funeral expenses and reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him;

(c) federal ESTATE and Montana state ESTATE AND INHERITANCE taxes; and ~~debts and taxes~~

(D) DEBTS with preference under federal and Montana law;

(E) OTHER FEDERAL AND MONTANA STATE TAXES;

~~(d) reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him;~~

~~(e) debts and taxes with preference under the laws of this state;~~

~~(f)~~ ~~(d)~~ (F) all other claims.

(2) No preference shall be given in the payment of any claim over any other claim of the same class, and a claim

due and payable shall not be entitled to a preference over claims not due."

-End-